IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1100 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KUMUDCHANDRA KESHAVLAL PATEL HEIR OF KESHAVLAL P PATEL

Versus

BALVIR SOMCHAND ALIAS SAUCHAND

Appearance:

MR BR PARIKH for the Petitioner.

NOTICE SERVED BY DS for Respondent No. 1

RULE SERVED for Respondent No. 1-3

SERVED BY AFFIX.-(R) for Respondent No. 2

MR JR SHAH for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 25/03/2004

ORAL JUDGEMENT

The petitioner herein is the original plaintiff of a civil suit, being HRP Civil Suit No.453 of 1990,

which is pending in the Small Causes Court at Ahmedabad. The petitioner has filed the aforesaid suit against respondents 1 and 2, who are defendants 1 and 2 in the said suit. The suit is filed for recovery of possession of the suit premises as well as recovery of arrears of rent and mesne profits on the ground that the original tenant has sub-let the suit premises and that the suit premises is not used and that the tenant is also in arrears of rent.

In the aforesaid suit, respondent No.3 herein, who is a third party, submitted an application at Exhibit 163, requesting the Court to allow him to be joined as defendant No.3 in the said suit, alleging that he has got right, title and interest in the suit property. The said application was resisted by the present petitioner, by filing reply at Exhibit 167. The trial court, by the impugned order, allowed the said application of the third party, and he was permitted to be joined as co-defendant No.3 in the said suit. Against the aforesaid order, the original defendant has filed this revision application, on the ground that respondent No.3 herein is not a necessary or proper party and, therefore, the trial court has committed an error in permitting him to be joined as one of the defendants in the said suit.

At the time of hearing of this revision application, Mr.Parikh, lsearned Advocate for the petitioner, submitted that, in order to see that the plaintiff may not have to face any type of obstruction in execution proceedings, in case decree is passed in his favour, he is not pressing this revision, challenging the impugned order of the trial court, by which respondent No.3 was permitted to be joined as co-defendant No.3 in the said suit, so that the trial court can pass effective decree and the petitioner may not be subjected to any obstruction at the instance of defendant No.3. He, therefore, submitted that the is not pressing this revision application. However, he requested that since the suit is of 1990, the same is required to be disposed of as early as possible, as more than 13 years have passed. Considering the aforesaid request of Mr.Parikh, he is permitted to withdraw this revision. The revision stands disposed of as withdrawn. Rule is discharged. Interim relief is vacated, with no order as to costs.

Considering the fact that the suit is of 1990, as well as considering the say of Mr.Parikh for the petitioner that the matter is at evidence stage before the trial judge, it would be just and proper to direct the Small Causes Court to dispose to the suit at the

earliest, latest by 30th June, 2004. This is the outer limit. If it is possible for the learned trial Judge to dispose of the matter earlier, such attempt also should be made.

It is clarified that the question, whether respondent No.3, who is permitted to be joined as defendant No.3, is having any right, title or interest or not, is to be decided by the trial court. Simply because he is permitted to be joined as defendant No.3 in the suit does not mean that he has got any right, title or interest in the suit premises, as, it is for the trial court to decide the same after appreciation of evidence on record.

Writ of this order to be sent to the trial court forthwith in order to see that the suit is decided within the stipulated time and such writ should be sent lasted by 31st March, 2004, without any further delay. Office of this Court is directed to see that the writ is dispatched to the trial court forthwith.

25th March, 2004 (P.B. Majmudar, J.)

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(apj)